

IN THE SUPREME COURT OF THE STATE OF  
ORIGINAL MONTANA  
FILED

DONNY R. SANDAU

OCT 14 2009

APPELLANT

CAUSE

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

VS.

STATE OF MONTANA

NOTICE OF APPEAL

APPELLEE

NOTICE is given that Donny R. Sandau, the Appellant above-named and who is the Defendant in that cause of action filed in the FOURTH Judicial District, in and for the County of MISSOULA, as Cause No. DC-08-345 hereby appeals to the SUPREME COURT of THE STATE of MONTANA from the final judgment or order entered in such action on the 30th day of September 2009.

## THE APPELLANT FURTHER CERTIFIES

1. That this appeal is not subject to the mediation process required by M.R. App. P. 7.

2. That this appeal is an appeal from an order certified as final under M.R. Civ. P. 54(B). A true copy of the District Court's certification order is attached hereto as Exhibit "A".

3. That this notice required by M.R. App. 27 has been given within 11 days of the date hereof, to the SUPREME COURT and to the MONTANA ATTORNEY GENERAL with respect to a challenge to the Constitutionality of any act of the MONTANA Legislature.

4. That all available transcripts of the proceedings in this Cause have not been ordered from the COURT Reporter contemporaneously with the filing of this notice of

Appeal. If all available transcripts have not been ordered that Appellant has complied with the provisions of M.R. App. P. 3(3) contemporaneously with the filing of this NOTICE OF APPEAL.

5. That included herewith is the affidavit to proceed without payment of the required filing fee.

DATED THIS 9<sup>th</sup> DAY OF October 2009

By Donny R. Sandau

### CERTIFICATE OF SERVICE

I hereby certify that I have sent a true and accurate copy of the foregoing, NOTICE OF APPEAL postage prepaid to the following.

DATED THIS 9<sup>th</sup> DAY OF October 2009

By Donny R. Sandau

Clerk of the Supreme Court

P.O. Box 203003

Helena MT. 59620-3003

MONTANA ATTORNEY GENERAL

P.O. Box 201401

Helena MT. 59620-1401

MISSOULA COUNTY ATTORNEY

200 WEST BROADWAY ST.

MISSOULA MT. 59802-4292

DISTRICT COURT JUDGE

Robert L. Deschamps III

Department No. 2

200 WEST BROADWAY S

MISSOULA MT 59802

# EXHIBIT "A"

ROBERT L. DESCHAMPS. III  
District Judge  
Department No. 2  
Missoula County Courthouse  
Missoula, Montana 59802  
(406) 258-4772

FILED SEP 30 2009

SHIRLEY E. HAUST, CLERK  
By Molly Gado Deputy

## <MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY>

STATE OF MONTANA,

DEPT NO. 2

Plaintiff,

CAUSE NO. DC-08-345

-vs-

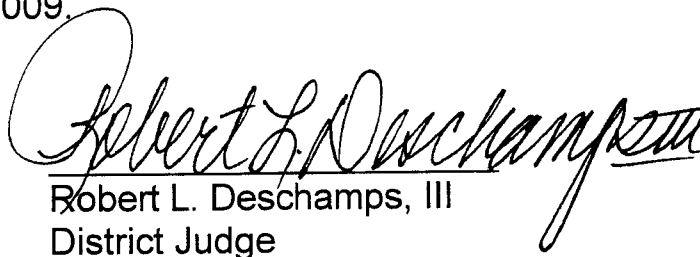
ORDER

DONNY R. SANDAU,

Defendant.

On September 2, 2009 the Defendant filed a motion asking for credit for 424 days served prior to his sentencing. The Judgment gave him credit for no days stating that he had previously received credit for time served in a Gallatin county case. The Missoula County Attorney filed a response to the Defendant's motion on September 30, 2009. The Court finds that the Missoula County Attorney's findings as stated in the September 30, 2009 brief and attachments are accurate. The Defendant's motion is **DENIED**.

DATED this 30th day of September, 2009.

  
Robert L. Deschamps, III  
District Judge

cc: Donny Sandau, pro se  
Betty Wing

IN THE SUPREME COURT OF THE STATE OF  
ORIGINAL MONTANA

FILED

DONNY R. SANDAU

OCT 14 2009

APPELLANT

CAUSE NO.

Ed Smith  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

VS.

MOTION AND AFFIDAVIT IN

STATE OF MONTANA

SUPPORT OF MOTION TO PROCEED ON APPEAL

APPELLEE

WITHOUT PAYMENT OF FILING FEE

I move this COURT to proceed without payment of the filing fee in this cause, and I submit this Affidavit in support of my motion.

I DONNY R. SANDAU, being first duly sworn, depose and say that I am the Appellant in the above-entitled cause, that in support of my motion to proceed on appeal without being required to pay the filing fee, I STATE that because of my financial condition I am unable to pay the filing fee, that I believe I am entitled to redress and that the issues which I desire to present on appeal are the following.

That the information that the Missoula County Attorney presented in their brief are WRONG. To wit boarders on a Violation of the Appellants, ART. II section 17 Due process. Due process requires that a convicted person not be sentenced on materially untrue assumptions or misinformation. US. V Miller 263 F3D1. Further more the Appellant asserts that the ORDER ON/UNDER APPEAL violates M.C.A. 46-18-403 CREDIT for Time served IN STATE V. MILLIGAN DA 07-0449 (2009) The MONTANA SUPREME COURT clearly states that the defendant

must be given Credit for TIME SERVED, having been arrested on that case and being INCARCERATED on/for that case.

I further swear to the following. That I am employed in the kitchen at CROSSROADS CORRECTIONAL Center, at SHELBY MT. at a rate of .30 cents per hour, for a 40 hr week. Paid MONTHLY. That I have NO checking or savings account. That I DO NOT own any real estate, stocks, bonds, notes, automobiles, or other Valuable Property.

I understand that a false statement or answer in this AFFIDAVIT will subject me to penalties for perjury.

Donny R. Sandau  
DONNY R. SANDAU

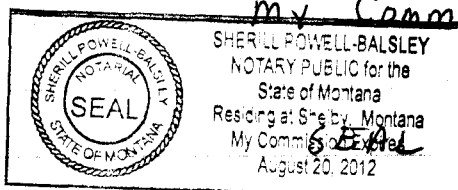
Subscribed and sworn to before me this 7<sup>th</sup> day of October, 2009

*Sherill Powell-Balsley*

NOTARY PUBLIC FOR THE STATE OF MONTANA

Residing at Shelby

My Commission EXPIRES 8/20/2012



I BONNIE MECKLING am the keeper of the accounting records for CCA. I hereby

Certify that the attached copy of DONNY SANDAY AO# 35913 account is true and Accurate.

Signature of certified Bonnie Meckling Date: 10-6-09

**Notary Public:**

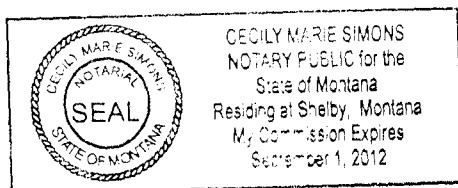
State Of Montana

County of Teton

Signed or attested before me on 10-6-09 by Bonnie Meckling

Signature of Notararial Officer: Cecily Marie Simons

Commission Expires: 10-6-9-01-12



10/06/2009

## Crossroads Correctional Center Resident Activity Statement

Resident Name: SANDAU, DONNY

Housing Location: CCC,CCC,1,A,15,1

Date Range:

04/01/2009 Through 10/07/2009

Beginning Account Balances:

Ending Account Balances:

	Personal Balance	Non-Per Balance	Debt		Personal Balance
Rstitution	\$0.00	\$0.00	(\$4,709.73)	Rstitution	\$0.00
Trust	\$29.56	\$0.00	\$0.00	Trust	\$30.1
<b>Begin Totals</b>	<b>\$29.56</b>	<b>\$0.00</b>	<b>(\$4,709.73)</b>	<b>End Totals</b>	<b>\$30.1</b>

Date	Amount	Type	Comment	Personal Bal Change	Personal Acct Balance	Non-Personal Change	No
04/02/2009	(\$19.04)	Sale	Debit Sale	(\$19.04)	\$10.52	\$0.00	
04/03/2009	(\$10.52)	Transfer Institution - From	Automated Transfer Unit	(\$10.52)	\$0.00	\$0.00	
04/03/2009	\$10.52	Transfer Institution - To	Automated Transfer Unit	\$10.52	\$10.52	\$0.00	
04/03/2009	\$0.00	Change Housing	Automated Housing Change	\$0.00	\$10.52	\$0.00	
04/03/2009	\$19.04	Sale	credit left	\$19.04	\$29.56	\$0.00	
04/07/2009	\$0.00	Change Housing	Automated Housing Change	\$0.00	\$29.56	\$0.00	
04/07/2009	\$250.00	Resident Deposit	Phyllis Sandau	\$208.34	\$237.90	\$41.66	
04/10/2009	(\$49.82)	Sale	Debit Sale	(\$49.82)	\$188.08	\$0.00	
04/17/2009	(\$39.31)	Sale	Debit Sale	(\$39.31)	\$148.77	\$0.00	
04/20/2009	(\$27.28)	Sale	Debit Sale	(\$27.28)	\$121.49	\$0.00	
04/23/2009	\$500.00	Resident Deposit	Donny R Sandau-Gateway Community Fed Credit Union	\$416.67	\$538.16	\$83.33	
04/24/2009	(\$34.84)	Sale	Debit Sale	(\$34.84)	\$503.32	\$0.00	
04/27/2009	(\$199.00)	Sale	Debit Sale	(\$199.00)	\$304.32	\$0.00	
04/30/2009	(\$124.99)	Group Withdrawal	CCC 4/1/09-4/30/09 Restitution	\$0.00	\$304.32	(\$124.99)	
05/01/2009	(\$46.69)	Sale	Debit Sale	(\$46.69)	\$257.63	\$0.00	
05/08/2009	(\$44.04)	Sale	Debit Sale	(\$44.04)	\$213.59	\$0.00	

05/11/2009	\$45.00 Resident Deposit	Inmate Pay-April '09	\$37.50	\$251.09	\$7.50
05/12/2009	(\$7.50) Group Withdrawal	CCC 5/11/09 Restitution	\$0.00	\$251.09	(\$7.50)
05/22/2009	(\$17.32) Sale	Debit Sale	(\$17.32)	\$233.77	\$0.00
05/26/2009	\$1.55 Sale	Credit Sale	\$1.55	\$235.32	\$0.00
05/28/2009	(\$34.59) Sale	Debit Sale	(\$34.59)	\$200.73	\$0.00
06/01/2009	(\$10.29) Sale	Debit Sale	(\$10.29)	\$190.44	\$0.00
06/01/2009	\$5.20 Sale	Credit Sale	\$5.20	\$195.64	\$0.00
06/10/2009	\$51.50 Resident Deposit	Inmate Pay- May 2009	\$42.92	\$238.56	\$8.58
06/11/2009	(\$8.58) Group Withdrawal	CCC 6/11/09 Restitution	\$0.00	\$238.56	(\$8.58)
06/12/2009	(\$47.68) Sale	Debit Sale	(\$47.68)	\$190.88	\$0.00
06/19/2009	(\$36.51) Sale	Debit Sale	(\$36.51)	\$154.37	\$0.00
06/26/2009	(\$38.93) Sale	Debit Sale	(\$38.93)	\$115.44	\$0.00
07/02/2009	(\$27.93) Sale	Debit Sale	(\$27.93)	\$87.51	\$0.00
07/09/2009	\$45.30 Resident Deposit	CCC June Wages	\$37.75	\$125.26	\$7.55
07/10/2009	(\$17.64) Sale	Debit Sale	(\$17.64)	\$107.62	\$0.00
07/14/2009	\$0.00 Change Housing	Automated Housing Change	\$0.00	\$107.62	\$0.00
07/14/2009	(\$7.55) Group Withdrawal	CCC 7/14/09 Restitution	\$0.00	\$107.62	(\$7.55)
07/17/2009	(\$42.58) Sale	Debit Sale	(\$42.58)	\$65.04	\$0.00
07/24/2009	(\$13.24) Sale	Debit Sale	(\$13.24)	\$51.80	\$0.00
07/25/2009	\$0.00 Change Housing	Automated Housing Change	\$0.00	\$51.80	\$0.00
07/28/2009	\$0.00 Change Housing	Automated Housing Change	\$0.00	\$51.80	\$0.00
07/29/2009	(\$45.92) Sale	Debit Sale	(\$45.92)	\$5.88	\$0.00
07/30/2009	(\$3.83) Sale	Debit Sale	(\$3.83)	\$2.05	\$0.00
08/08/2009	\$0.00 Change Housing	Automated Housing Change	\$0.00	\$2.05	\$0.00
08/10/2009	\$56.12 Resident Deposit	Inmate Pay - July 2009	\$46.77	\$48.82	\$9.35
08/11/2009	(\$9.35) Group Withdrawal	CCC 8/11/09 Restitution	\$0.00	\$48.82	(\$9.35)
08/14/2009	(\$13.44) Sale	Debit Sale	(\$13.44)	\$35.38	\$0.00
08/21/2009	(\$16.23) Sale	Debit Sale	(\$16.23)	\$19.15	\$0.00
08/27/2009	(\$5.00) Transfer Other Funds	copy card	(\$5.00)	\$14.15	\$0.00
08/28/2009	(\$6.24) Sale	Debit Sale	(\$6.24)	\$7.91	\$0.00
08/31/2009	\$50.00 Resident Deposit	Julie Sampson	\$41.67	\$49.58	\$8.33



09/02/2009	(\$8.33) Group Withdrawal	CCC 9/2/09 Restitution	\$0.00	\$49.58	(\$8.33)
09/03/2009	(\$0.51) Transfer Other Funds	postage 9/1/09	(\$0.51)	\$49.07	\$0.00
09/04/2009	(\$5.59) Sale	Debit Sale	(\$5.59)	\$43.48	\$0.00
09/10/2009	\$47.50 Resident Deposit	Inmate Pay	\$39.58	\$83.06	\$7.92
09/11/2009	(\$15.60) Sale	Debit Sale	(\$15.60)	\$67.46	\$0.00
09/11/2009	(\$7.92) Group Withdrawal	CCC 9/11/09 Restitution	\$0.00	\$67.46	(\$7.92)
09/15/2009	(\$18.38) Sale	Debit Sale	(\$18.38)	\$49.08	\$0.00
09/18/2009	(\$10.67) Sale	Debit Sale	(\$10.67)	\$38.41	\$0.00
09/25/2009	(\$6.54) Sale	Debit Sale	(\$6.54)	\$31.87	\$0.00
09/28/2009	(\$1.72) Transfer Other Funds	postag 9/25/09	(\$1.72)	\$30.15	\$0.00